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UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1992/SR.1
2 September 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 August 1992, at 10.30 a.m.

Temporary Chairman: Mr. JOINET

Chairman: Mr. ALFONSO MARTINEZ

CONTENTS

Opening of the session

Tribute to the memory of Mr. Horst Keilau, Chief, Prevention of Discrimination Section

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GE.92-12907/0732K (E)

CONTENTS (continued)

Statement by the Under-Secretary-General for Human Rights

Election of officers

Adoption of the agenda

Tribute to the victims of apartheid

Organization of work

OPENING OF THE SESSION

TRIBUTE TO THE MEMORY OF MR. HORST KEILAU, CHIEF, PREVENTION OF DISCRIMINATION SECTION

1. The TEMPORARY CHAIRMAN declared open the forty-fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

2. On the proposal of the Temporary Chairman, the members of the Sub-Commission observed a minute of silence in tribute to the memory of Mr. Horst Keilau, Chief, Prevention of Discrimination Section.

3. The TEMPORARY CHAIRMAN, after welcoming the newly elected experts of the Sub-Commission, observed that the session that was beginning should mark the final stage of the reform of the Sub-Commission's methods of work. The process of reform had begun with the preparation, in 1974, of guidelines on the methods of work of the Sub-Commission which it had adopted at its twenty-seventh session (document E/CN.4/1160). Subsequently, in 1989, by decision 1989/104, the Sub-Commission had established a sessional working group which had first addressed the sensitive question of the report to be forwarded to the Commission in order to draw its attention to the serious and large-scale violation of rights considered annually under item 6 of the Sub-Commission's agenda. More recently, in 1990, in its report published as document E/CN.4/Sub.2/1991/16, the Working Group had put forward proposals not simply on the single issue violations, but mainly on that of the reform of its methods of work; those proposals had been followed, at the end of 1991, by a working paper, on the preparation of which Mr. Heller and himself had cooperated together with several of his colleagues, to allow informal consultations to be held between the two sessions aimed at introducing, at the current session, an immediately operational method of reform. It now seemed that conditions were such that the Sub-Commission could proceed to take action. On one hand, it had clear and imperative terms of reference from the Commission concerning the items on which it was required to take a decision and the way of doing so, namely, by a draft decision, and, on the other hand, it had a doubly effective method of work since the Commission had authorized an intersessional working group to meet in order to formulate the various components of the draft decision which would be submitted to the Sub-Commission at its current session, and since it had also decided that the Sub-Commission would consider those components for adoption directly in plenary, thereby obviating the need for prior consideration by the sessional working group as well as the stage of proposals and recommendations of various kinds.

4. At its forty-fourth session, the Sub-Commission should therefore encourage those who were on the right road but also denounce the serious and blatant violations too often endured by the peoples of the world. That task required the Sub-Commission to reform its methods of work in depth as the best answer to the critics who were opposed to change and the extremists who favoured its abolition purely and simply.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

5. Mr. BLANCA (Under-Secretary-General for Human Rights) reminded the Sub-Commission that 47 years earlier the international community had committed itself to promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion and that it was celebrating the forty-fourth anniversary of the Universal Declaration of Human Rights as well as of the Sub-Commission. Since that era, when the main concern of the United Nations had been to prevent a return of the atrocities caused by war, racism and persecution of minorities, the place of human rights in the work of the Organization had grown steadily and today there was an authentic international human rights code accompanied by innovative and broad-ranging implementing mechanisms. The Sub-Commission had made an inestimable contribution to building up that system, mainly by providing the experts and representatives of the specialized agencies and non-governmental organizations with an international forum in which they could discuss freely fundamental issues. With a membership of independent experts, the Sub-Commission was unique in character; its terms of reference were to examine and discuss economic, social, cultural, civil or political aspects of human rights and, consequently, it was able to study, with full knowledge of the facts, the interdependence of all those rights.

6. He noted that while people had formerly considered their differences as an opportunity for enrichment, those differences were once again causing serious tensions and even violent confrontations leading to the death of thousands of men, women and children. The question of the protection of minorities therefore continued to be one of the priorities of the Sub-Commission at its forty-fourth session. In that regard, the approval by the Commission on Human Rights of the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities and its recommendation by the Economic and Social Council for adoption by the General Assembly at its next session were welcome.

7. Racism and xenophobia, aspects of intolerance in respect of difference, were also increasing in scale; they were the immediate cause of the recrudescence of human rights violations which required that the United Nations should seek more effective ways of combating the exceedingly disquieting phenomenon. Going well beyond mere racial discrimination, confrontations motivated only by slight religious or historical differences were occurring among populations of the same ethnic group.

8. He recalled that in resolution 46/85, the General Assembly had welcomed the publication of the global compilation of national legislations against racism and racial discrimination and had also welcomed the progress made in preparing model legislation for the guidance of Governments in the enactment of further legislation against racial discrimination; in the same resolution, the General Assembly had requested the Secretary-General to publish the study of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the results achieved and obstacles encountered during the first Decade for Action to Combat Racism and Racial Discrimination and the first half of the Second Decade and distribute it on as wide a scale as possible.

9. He said that respect for human rights, development and peace were associated. He recalled that, at its special session in 1990 and subsequently in the context of the Programme of Action adopted by the Second United Nations Conference on the Least Developed Countries as well as in the International Development Strategy for the Fourth United Nations Development Decade, the General Assembly had emphasized respect for human rights in the development process. The concepts relating to human rights had thus been integrated into the planning, implementation and evaluation of development projects, and at the national level there had been an increasing awareness of the fact that democracy in itself was not sufficient to guarantee the effective enjoyment of human rights and that it could not survive without genuine social justice.

10. The Sub-Commission had performed work of outstanding importance in that particular area. At its forty-fourth session, it would have before it the final report by Mr. Türk (E/CN.4/Sub.2/1992/16) which addressed the problems, policies and progressive measures relating to a more effective realization of economic, social and cultural rights, the role of the international financial institutions and the effects, from the point of view of the enjoyment of human rights, of economic adjustment policies. He noted that the Centre for Human Rights would organize in December 1992 a seminar of experts to discuss appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights. He stressed that the Sub-Commission was in a position to make a valuable contribution in that regard due to the fact that it was also concerned with extreme poverty, the right to adequate housing and human rights in the context of population transfers and the environment.

11. Turning to the rights of indigenous people, he stressed the importance of the draft universal declaration of indigenous rights, on the preparation of which a Sub-Commission Working Group was currently engaged. That initiative was consistent with the commitment by the United Nations indicated in General Assembly resolution 46/128 in which it adopted a programme of activities for 1993, the International Year for the World's Indigenous People, with the theme of "Indigenous people - a new partnership". The main idea was to encourage international cooperation between States and intergovernmental institutions in order to resolve the problems faced by indigenous people; to increase the participation of indigenous people in the planning, implementation and evaluation of projects and policies that affected them and to make the public aware of them. At the first technical meeting on the International Year for the World's Indigenous People, it had been decided that programmes and activities should focus on six major themes: human rights, development and environment, education and culture, health, independent management and administration, and finally, public events and information. As the Coordinator of the Year, he was endeavouring to encourage United Nations organs and agencies to participate in that event.

12. He noted that the Sub-Commission's impressive agenda gave prominence in items 10 and 11 to issues concerning the relations between the individual and the State when the former confronted the power of the latter, exercised through the intermediary of the judicial system. He proposed that in addition to the annual review of information concerning detainees prepared by the sessional Working Group on Detention, the Sub-Commission should consider the need for a judicial system which made it possible to forestall human rights

violations, in particular by punishing their perpetrators. Violations of the right to life and security of the person, to freedom of thought and expression, to religious and cultural freedom and to the right to self-determination were still all too widespread; all too often repression was the response to peaceful dissidence and to calls for reform; all too often disquieting information had been received about acts of hatred and racial intolerance, particularly with regard to such vulnerable groups as indigenous peoples, gypsies, migrant workers and even AIDS victims.

13. As a forum for discussion for international experts and a platform from which the non-governmental community could expound problems and make known its ideas, the Sub-Commission had succeeded in playing an eminently useful role in a world that had changed considerably and continued to do so, a world that had seen both undisputed progress in the field of human rights and the tragic reality of daily and widespread violations. Thus, the Sub-Commission had evolved and had found it necessary to review its working methods so as to carry out its task more effectively. In resolution 1992/66, the Commission on Human Rights had authorized, on an exceptional basis, the meeting of an inter-sessional working group on the rationalization of the work and the agenda of the Sub-Commission. In paragraph 6 of that resolution, it requested that working group to prepare a list of specific proposals in draft decision format to be submitted to the Sub-Commission for adoption at its next session.

14. The process of reintegration of human rights into the international system, as originally conceived in the Charter of the United Nations, was becoming increasingly visible. More and more, the specialized institutions and other bodies of the international system were taking into account the need to give priority to human rights in their own fields of activity; in the area of the rights of the child, UNICEF had published a moving document on the disappearance and prostitution of children (a publication which, unfortunately, he had only learned about through the press); UNDP had focused on development and the human dimension, and the international financial institutions on the realization of economic, social and cultural rights.

15. Evoking the World Conference on Human Rights, he called upon the Sub-Commission to reflect upon the objectives set and to consider ways to help solve the problems addressed. For his part, he assured the Sub-Commission of his unreserved support. He intended to follow the debates with the greatest attention and to put forth suggestions and ideas that might help the Sub-Commission to attain its objectives.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

16. The TEMPORARY CHAIRMAN invited the Sub-Commission to elect its Chairman for the forty-fourth session.

17. Mr. DESPOUY nominated Mr. Alfonso Martínez for the office of Chairman of the forty-fourth session of the Sub-Commission.

18. Mr. KHALIFA and Mr. HATANO seconded the nomination.

19. Mr. Alfonso Martínez was elected Chairman by acclamation.

20. Mr. Alfonso Martínez took the Chair.

21. The CHAIRMAN said that he was very honoured to have been elected Chairman of the forty-fourth session of the Sub-Commission. He welcomed the newly elected members and paid a tribute to the experts who had participated in the Sub-Commission's work in recent years and who for various reasons were no longer on that body. He was deeply moved by the recent death of Mr. Keilau, who for nearly 20 years had enriched the Sub-Commission with his professional and personal qualities.

22. As a new unipolar order gradually replaced the international order that had emerged from the Second World War, the fundamental problems that to a large degree were the source of violations of the human rights of hundreds of millions of persons had still not been resolved, and it was not clear how they could be, in the short or medium term. One had only to consider the insuperable obstacles to development facing the countries of the South, brought about by a continuing international economic order which, far from narrowing the gap separating them from the countries of the North, actually broadened it. The external debt was a heavy burden for the countries of the third world; the very high social cost of intrinsically neo-liberal "structural adjustments" which had caused the impoverishment and marginalization of large segments of the population, had become too obvious to be ignored or underestimated.

23. A solution to the irredentism of many peoples, particularly the Palestinian people, had still not been found and traditional colonial situations had not yet entirely disappeared. Notwithstanding the perceptible progress made in South Africa towards abolishing apartheid, the most retrograde forces of that country, flying in the face of all logic, showed an obstinate predilection to perpetuate the system. In addition, there were continuing reports of disappearances and torture throughout the world.

24. The problems concerning national minorities had been aggravated by the changes that had occurred on the world scene. The media could well make the terrible events they regularly reported into something commonplace. In what was known as the developed societies, every day there were new violations of the human rights of the most vulnerable groups, children, women, indigenous peoples and migrant workers. The resurgence of such aberrant phenomena as racism, intolerance and xenophobia were of particular concern. The Sub-Commission should study all those problems and take decisions on them.

25. It was important to bear in mind that the Sub-Commission had recently been the target of criticism from various sources concerning its very nature, as well as its working methods. It had even been insinuated that if the Sub-Commission did not mend its ways, it might well cease to exist, and that that would be no great loss. Clearly, it was for the Sub-Commission's parent bodies, the Commission on Human Rights and the Economic and Social Council, to take any such decision and to assume responsibility for it. In view of that situation, it was up to every member of the Sub-Commission to analyse with the utmost care and with a critical mind what needed to be improved in the Sub-Commission's functioning and in the "philosophy" underlying its work. But the Sub-Commission must beware that under the pretext of infusing its work

with fresh "dynamism" and more "creativity" and encouraging a "democracy of time shared" the unique traits that it had had since its creation were not lost forever, namely the independence and creativity of its experts and the possibility open to them of taking individual initiatives and expressing their opinions in complete freedom.

26. Primo inter pares, he was well aware that he could only fulfil his task with everyone's cooperation. Anxious to carry out his functions in a spirit of dialogue, he intended to invoke the rules of procedure, only as a last resort. In closing, he urged the participants to do their utmost to make the forty-fourth session of the Sub-Commission a success.

27. The CHAIRMAN invited nominations for the offices of Vice-Chairmen.

28. Mrs. MBONO nominated Mrs. Ksentini for the office of Vice-Chairman.

29. Mr. HATANO nominated Mr. Sachar for the office of Vice-Chairman.

30. Mr. MAXIM nominated Mr. Chernichenko for the office of Vice-Chairman.

31. Mrs. Ksentini, Mr. Sachar and Mr. Chernichenko were elected Vice-Chairmen by acclamation.

32. The CHAIRMAN invited nominations for the office of Rapporteur.

33. Mrs. DAES nominated Mr. Bossuyt for the office of Rapporteur.

34. Mr. Bossuyt was elected Rapporteur by acclamation.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/Sub.2/1992/1 and Add.1)

35. Mrs. KSENTINI said that she wished to point out that the order in which the various items of the provisional agenda appeared should not prejudge the order of priority and that that question should be taken up when considering the organization of work.

36. The provisional agenda (E/CN.4/Sub.2/1992/1 and Add.1) was adopted.

TRIBUTE TO THE VICTIMS OF APARTHEID

37. The CHAIRMAN recalled that the Sub-Commission, in its decision 1985/109, had decided to observe, at the beginning of each session, a minute of silence in honour of the victims of apartheid.

38. The members of the Sub-Commission observed a minute of silence in honour of the victims of apartheid.

ORGANIZATION OF WORK

39. The CHAIRMAN announced that the Officers would meet in the afternoon, and he took the opportunity to ask the members of the Sub-Commission to hold consultations on the composition of any working groups that might meet during the session.

40. Mr. LEBAKINE (Secretary of the Sub-Commission), noting the stage reached in the distribution of the main documents, said that virtually all documents had been distributed to the members in all working languages.

41. The CHAIRMAN, replying to a question by Mr. JOINET, said that the Working Group on Detention was a standing group of the Sub-Commission, but that the Officers would examine the question of the possible establishment of other working groups for the current session. Replying to a question by Mrs. KSENTINI, he said that the report of the inter-sessional Working Group on the methods of work of the Sub-Commission had been distributed in document E/CN.4/Sub.2/1992/3.

The meeting rose at 1 p.m.